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Chapter No. 362

19/SS36/R627

LR / TB/LR

SENATE BILL NO. 2237

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2237

AN ACT TO CLARIFY THAT PERSONS WHO HAVE BEEN CONVICTED OF EMBEZZLEMENT OF PUBLIC FUNDS ARE NOT ELIGIBLE TO HOLD PUBLIC OFFICE; TO AMEND SECTIONS 23-15-299 AND 23-15-359, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE APPROPRIATE ELECTION OFFICIALS SHALL VERIFY THAT PERSONS WHO SUBMIT QUALIFYING PAPERS TO RUN FOR PUBLIC OFFICE HAVE NOT BEEN CONVICTED OF A DISQUALIFYING OFFENSE; TO AMEND SECTION 37-9-13, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE QUALIFICATIONS FOR APPOINTMENT TO THE OFFICE OF SCHOOL DISTRICT SUPERINTENDANT; TO AMEND SECTION 99-15-26, MISSISSIPPI CODE OF 1972, TO PROHIBIT NONADJUDICATION OF OFFENSES INVOLVING THE MISUSE OF FUNDS BY PUBLIC OFFICIALS AND EMPLOYEES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 23-15-299, Mississippi Code of 1972, is amended as follows:

23-15-299. (1) (a) Assessments made pursuant to paragraphs (a), (b) and (c) of Section 23-15-297 shall be paid by each candidate who seeks a nomination in the political party election to the secretary of the state executive committee with which the candidate is affiliated by 5:00 p.m. on March 1 of the year in which the primary election for the office is held or on the date of the qualifying deadline provided by statute for the office,

whichever is earlier; however, no such assessments may be paid before January 1 of the year in which the primary election for the office is held. If March 1 or the date of the qualifying deadline provided by statute for the office occurs on a Saturday, Sunday or legal holiday, then the assessments required to be paid by this paragraph * * * (a) shall be paid by 5:00 p.m. on the business day immediately following the Saturday, Sunday or legal holiday.

(b) Assessments made pursuant to paragraphs (a), (b) and (c) of Section 23-15-297 shall be paid by each independent candidate or special election candidate to the Secretary of State by 5:00 p.m. on March 1 of the year in which the primary election for the office is held or on the date of the qualifying deadline provided by statute for the office, whichever is earlier; however, no such assessments may be paid before January 1 of the year in which the primary election for the office is held. If March 1 or the date of the qualifying deadline provided by statute for the office occurs on a Saturday, Sunday or legal holiday, then the assessments required to be paid by this paragraph * * * (b) shall be paid by 5:00 p.m. on the business day immediately following the Saturday, Sunday or legal holiday.

(2) (a) Assessments made pursuant to paragraphs (d) and (e) of Section 23-15-297, shall be paid by each candidate who seeks a nomination in the political party election to the circuit clerk of that candidate's county of residence by 5:00 p.m. on March 1 of the year in which the primary election for the office is held or

on the date of the qualifying deadline provided by statute for the office, whichever is earlier; however, no such assessments may be paid before January 1 of the year in which the election for the office is held. If March 1 or the date of the qualifying deadline provided by statute for the office occurs on a Saturday, Sunday or legal holiday, then the assessments required to be paid by this paragraph * * * (a) shall be paid by 5:00 p.m. on the business day immediately following the Saturday, Sunday or legal holiday. The circuit clerk shall forward the fee and all necessary information to the secretary of the proper county executive committee within two (2) business days. No candidate may attempt to qualify with any political party that does not have a duly organized county executive committee, and the circuit clerk shall not accept any assessments paid for nonlegislative offices pursuant to paragraphs (d) and (e) of Section 23-15-297 if the circuit clerk does not have contact information for the secretary of the county executive committee for that political party.

(b) Assessments made pursuant to paragraphs (d) and (e) of Section 23-15-297 shall be paid by each independent candidate or special election candidate to the circuit clerk of that candidate's county of residence by 5:00 p.m. on March 1 of the year in which the primary election for the office is held or on the date of the qualifying deadline provided by statute for the office, whichever is earlier; however, no such assessments may be paid before January 1 of the year in which the primary election

for the office is held. If March 1 or the date of the qualifying deadline provided by statute for the office occurs on a Saturday, Sunday or legal holiday, then the assessments required to be paid by this paragraph * * * (b) shall be paid by 5:00 p.m. on the business day immediately following the Saturday, Sunday or legal holiday. The circuit clerk shall forward the fee and all necessary information to the secretary of the proper county election commission within two (2) business days.

(3) (a) Assessments made pursuant to paragraphs (f) and (g) of Section 23-15-297 must be paid by each candidate who seeks a nomination in the political party election to the secretary of the state executive committee with which the candidate is affiliated by 5:00 p.m. sixty (60) days before the presidential preference primary in years in which a presidential preference primary is held; however, no such assessments may be paid before January 1 of the year in which the primary election for the office is held. Assessments made pursuant to paragraphs (f) and (g) of Section 23-15-297, in years when a presidential preference primary is not being held, shall be paid by each candidate who seeks a nomination in the political party election to the secretary of the state executive committee with which the candidate is affiliated by 5:00 p.m. on March 1 of the year in which the primary election for the office is held; however, no such assessments may be paid before January 1 of the year in which the primary election for the office is held. If sixty (60) days before the presidential preference

primary in years in which a presidential preference primary is held, March 1, or the date of the qualifying deadline provided by statute for the office occurs on a Saturday, Sunday or legal holiday, then the assessments required to be paid by this paragraph * * * (a) shall be paid by 5:00 p.m. on the business day immediately following the Saturday, Sunday or legal holiday.

(b) Assessments made pursuant to paragraphs (f) and (g) of Section 23-15-297 must be paid by each independent candidate or special election candidate to the Secretary of State by 5:00 p.m. sixty (60) days before the presidential preference primary in years in which a presidential preference primary is held; however, no such assessments may be paid before January 1 of the year in which the primary election for the office is held. Assessments made pursuant to paragraphs (f) and (g) of Section 23-15-297, in years when a presidential preference primary is not being held, shall be paid by each independent candidate or special election candidate to the Secretary of State by 5:00 p.m. on March 1 of the year in which the primary election for the office is held; however, no such assessments may be paid before January 1 of the year in which the primary election for the office is held. If sixty (60) days before the presidential preference primary in years in which a presidential preference primary is held, March 1, or the date of the qualifying deadline provided by statute for the office occurs on a Saturday, Sunday or legal holiday, then the assessments required to be paid by this paragraph * * * (b) shall

be paid by 5:00 p.m. on the business day immediately following the Saturday, Sunday or legal holiday.

(4) (a) The fees paid pursuant to subsections (1), (2) and (3) of this section shall be accompanied by a written statement containing the name and address of the candidate, the party with which he or she is affiliated, if applicable, the email address of the candidate, if any, and the office for which he or she is a candidate.

(b) The state executive committee shall transmit to the Secretary of State a copy of the written statements accompanying the fees paid pursuant to subsections (1) and (2) of this section. All copies must be received by the Office of the Secretary of State by not later than 6:00 p.m. on the date of the qualifying deadline; provided, however, the failure of the Office of the Secretary of State to receive such copies by 6:00 p.m. on the date of the qualifying deadline shall not affect the qualification of a person who pays the required fee and files the required statement by 5:00 p.m. on the date of the qualifying deadline. The name of any person who pays the required fee and files the required statement after 5:00 p.m. on the date of the qualifying deadline shall not be placed on the primary election ballot or the general election ballot.

(5) The Secretary of State or the secretary or circuit clerk to whom such payments are made shall promptly receipt for same stating the office for which the candidate making payment is

running and the political party with which he or she is affiliated, if applicable, and he or she shall keep an itemized account in detail showing the exact time and date of the receipt of each payment received by him or her and, where applicable, the date of the postmark on the envelope containing the fee and from whom, and for what office the party paying same is a candidate.

(6) The secretaries of the proper executive committee shall hold the funds to be finally disposed of by order of their respective executive committees. The funds may be used or disbursed by the executive committee receiving same to pay all necessary traveling or other necessary expenses of the members of the executive committee incurred in discharging their duties as committee members, and of their secretary and may pay the secretary such salary as may be reasonable. The Secretary of State shall deposit any qualifying fees received from candidates into the Elections Support Fund established in Section 23-15-5.

(7) (a) Upon receipt of the proper fee and all necessary information, the proper executive committee or the Secretary of State, whichever is applicable, shall then determine at the time of the qualifying deadline, unless otherwise provided by law, whether each candidate is a qualified elector of the state, state district, county or county district which they seek to serve, and whether each candidate meets all other qualifications to hold the office he or she is seeking or presents absolute proof that he or she will, subject to no contingencies, meet all qualifications on

or before the date of the general or special election at which he or she could be elected to office. The proper executive committee or the Secretary of State, whichever is applicable, shall determine whether the candidate has taken the steps necessary to qualify for more than one (1) office at the election. The committee or the Secretary of State, whichever is applicable, shall also determine whether any candidate has been convicted (i) of any felony in a court of this state, * * * (ii) on or after December 8, 1992, of any offense in another state which is a felony under the laws of this state, * * * (iii) of any felony in a federal court on or after December 8, 1992, or (iv) of any offense that involved the misuse or abuse of his or her office or money coming into his or her hands by virtue of the office. Excepted from the above are convictions of manslaughter and violations of the United States Internal Revenue Code or any violations of the tax laws of this state * * *.

(b) If the proper executive committee or the Secretary of State, whichever is applicable, finds that a candidate either (* * * i) is not a qualified elector, (* * * ii) does not meet all qualifications to hold the office he or she seeks and fails to provide absolute proof, subject to no contingencies, that he or she will meet the qualifications on or before the date of the general or special election at which he or she could be elected, or (* * * iii) has been convicted of a felony or other disqualifying offense as described in paragraph (a) of this

subsection, and not pardoned, then the executive committee shall notify the candidate and give the candidate an opportunity to be heard. The executive committee shall mail notice to the candidate at least three (3) business days before the hearing to the address provided by the candidate on the qualifying forms, and the committee shall attempt to contact the candidate by telephone, email and facsimile if the candidate provided this information on the forms. If the candidate fails to appear at the hearing or to prove that he or she meets all qualifications to hold the office subject to no contingencies, then the name of that candidate shall not be placed upon the ballot.

(c) If the proper executive committee or the Secretary of State, whichever is applicable, determines that the candidate has taken the steps necessary to qualify for more than one (1) office at the election, the action required by Section 23-15-905, shall be taken.

(d) Where there is but one (1) candidate for each office contested at the primary election, the proper executive committee or the Secretary of State, whichever is applicable, when the time has expired within which the names of candidates shall be furnished shall declare such candidates the nominees.

(8) No candidate may qualify by filing the information required by this section by using the Internet.

SECTION 2. Section 23-15-359, Mississippi Code of 1972, is amended as follows:

23-15-359. (1) Except as provided in this section, the ballot shall contain the names of all party nominees certified by the appropriate executive committee, and independent and special election candidates who have timely filed petitions containing the required signatures and assessments that must be paid pursuant to Section 23-15-297, if the candidates and nominees meet all of the qualifications to hold the office sought. A petition requesting that an independent or special election candidate's name be placed on the ballot for any office shall be filed as provided for in subsection (3) or (4) of this section, as appropriate, and shall be signed by not less than the following number of qualified electors:

(a) For an office elected by the state at large, not less than one thousand (1,000) qualified electors.

(b) For an office elected by the qualified electors of a Supreme Court district, not less than three hundred (300) qualified electors.

(c) For an office elected by the qualified electors of a congressional district, not less than two hundred (200) qualified electors.

(d) For an office elected by the qualified electors of a circuit or chancery court district, not less than one hundred (100) qualified electors.

(e) For an office elected by the qualified electors of a senatorial or representative district, not less than fifty (50) qualified electors.

(f) For an office elected by the qualified electors of a county, not less than fifty (50) qualified electors.

(g) For an office elected by the qualified electors of a supervisors district or justice court district, not less than fifteen (15) qualified electors.

(h) For the Office of President of the United States, a party nominee or independent candidate shall pay an assessment in the amount of Two Thousand Five Hundred Dollars (\$2,500.00).

(2) (a) Unless the petition or fee, whichever is applicable, required above shall be filed as provided for in subsection (3), (4) or (5) of this section, as appropriate, the name of the person requested to be a candidate, unless nominated by a political party, shall not be placed upon the ballot. The ballot shall contain the names of each candidate for each office, and the names shall be listed under the name of the political party that candidate represents as provided by law and as certified to the circuit clerk by the state executive committee of the political party. In the event the candidate qualifies as an independent as provided in this section, he or she shall be listed on the ballot as an independent candidate.

(b) The name of an independent or special election candidate who dies before the printing of the ballots, shall not be placed on the ballots.

(3) Petitions for offices described in paragraphs (a), (b), (c), (d) and (e) of subsection (1) of this section shall be filed with the Secretary of State by no later than 5:00 p.m. on the same date or business day, as applicable, by which candidates are required to pay the fee provided for in Section 23-15-297; however, no petition may be filed before January 1 of the year in which the election for the office is held.

(4) Petitions for offices described in paragraphs (f) and (g) of subsection (1) of this section shall be filed with the proper circuit clerk by no later than 5:00 p.m. on the same date by which candidates are required to pay the fee provided for in Section 23-15-297; however, no petition may be filed before January 1 of the year in which the election for the office is held. The circuit clerk shall notify the county election commissioners of all persons who have filed petitions with the clerk. The notification shall occur within two (2) business days and shall contain all necessary information.

(5) The assessment for the office described in paragraph (h) of subsection (1) of this section shall be paid to the Secretary of State. The Secretary of State shall deposit any qualifying fees received from candidates into the Elections Support Fund established in Section 23-15-5.

(6) The election commissioners may also have printed upon the ballot any local issue election matter that is authorized to be held on the same date as the regular or general election pursuant to Section 23-15-375; however, the ballot form of the local issue must be filed with the election commissioners by the appropriate governing authority not less than sixty (60) days before the date of the election.

(7) The provisions of this section shall not apply to municipal elections or to the election of the offices of justice of the Supreme Court, judge of the Court of Appeals, circuit judge, chancellor, county court judge and family court judge.

(8) Nothing in this section shall prohibit special elections to fill vacancies in either house of the Legislature from being held as provided in Section 23-15-851. In all elections conducted under the provisions of Section 23-15-851, there shall be printed on the ballot the name of any candidate who, not having been nominated by a political party, shall have been requested to be a candidate for any office by a petition filed with the Secretary of State and signed by not less than fifty (50) qualified electors.

(9) (a) The appropriate election commission shall determine whether each candidate is a qualified elector of the state, state district, county or county district they seek to serve, and whether each candidate meets all other qualifications to hold the office he or she is seeking or presents absolute proof that he or she will, subject to no contingencies, meet all qualifications on

or before the date of the general or special election at which he or she could be elected to office. The election commission shall determine whether the candidate has taken the steps necessary to qualify for more than one (1) office at the election. The election commission also shall determine whether any candidate has been convicted (i) of any felony in a court of this state, * * * (ii) on or after December 8, 1992, of any offense in another state which is a felony under the laws of this state, * * * (iii) of any felony in a federal court on or after December 8, 1992, or (iv) of any offense that involved the misuse or abuse of his or her office or money coming into his or her hands by virtue of the office.

Excepted from the above are convictions of manslaughter and violations of the United States Internal Revenue Code or any violations of the tax laws of this state * * *.

(b) If the appropriate election commission finds that a candidate either (* * * i) is not a qualified elector, (* * * ii) does not meet all qualifications to hold the office he or she seeks and fails to provide absolute proof, subject to no contingencies, that he or she will meet the qualifications on or before the date of the general or special election at which he or she could be elected, or (* * * iii) has been convicted of a felony or other disqualifying offense as described in paragraph (a) of this subsection, and not pardoned, then the election commission shall notify the candidate and give the candidate an opportunity to be heard. The election commission shall mail

notice to the candidate at least three (3) business days before the hearing to the address provided by the candidate on the qualifying forms, and the committee shall attempt to contact the candidate by telephone, email and facsimile if the candidate provided this information on the forms. If the candidate fails to appear at the hearing or to prove that he or she meets all qualifications to hold the office subject to no contingencies, then the name of such candidate shall not be placed upon the ballot. If the appropriate election commission determines that the candidate has taken the steps necessary to qualify for more than one (1) office at the election, the action required by Section 23-15-905, shall be taken.

(10) If after the deadline to qualify as a candidate for an office or after the time for holding any party primary for an office, only one (1) person has duly qualified to be a candidate for the office in the general election, the name of that person shall be placed on the ballot; provided, however, that if not more than one (1) person duly qualified to be a candidate for each office on the general election ballot, the election for all offices on the ballot shall be dispensed with and the appropriate election commission shall declare each candidate elected without opposition if the candidate meets all the qualifications to hold the office as determined pursuant to a review by the election commission in accordance with the provisions of subsection (9) of

this section and if the candidate has filed all required campaign finance disclosure reports as required by Section 23-15-807.

(11) The petition required by this section may not be filed by using the Internet.

SECTION 3. Section 37-9-13, Mississippi Code of 1972, is amended as follows:

37-9-13. (1) (a) Each school district shall have a superintendent of schools, selected in the manner provided by law. No person shall be eligible to the office of superintendent of schools unless such person shall hold a valid administrator's license issued by the State Department of Education and shall have classroom or administrative experience of not less than six (6) years which shall include at least three (3) years of administrative experience as a school building principal (a) in a school with an "A" or "B" accountability rating, or (b) in a school that increased its accountability rating by a letter grade during the period in which the principal was employed as principal at the school, or (c) in a school with comparable accountability rating or improvement in another state which shall be verified by the Mississippi Department of Education.

(b) Notwithstanding the provisions of subsection (4) of this section, no person shall be eligible to the office of superintendent of schools if the person has pled guilty to or been convicted of any state or federal offense in which he or she unlawfully took, obtained or misappropriated funds received by or

entrusted to the person by virtue of his or her public office or employment.

(2) From and after January 1, 2019, in all public school districts, the local school board shall appoint the superintendent of schools of such district. At the expiration of the term of any county superintendent of education elected at the November 2015 general election, the county superintendent of education of said county shall not be elected but shall thereafter be appointed by the local school board in the manner provided in Section 37-9-25. However, in the event that a vacancy in the office of the superintendent of schools elected at the November 2015 general election shall occur before January 1, 2019, the office of superintendent of schools shall immediately become an appointed position, and the local school board shall appoint the superintendent of the school district. The superintendent of schools shall have the general powers and duties to administer the schools within his district as prescribed in Section 37-9-14 et seq., Mississippi Code of 1972.

(3) As an alternative to the qualifications prescribed in subsection (1) (a) of this section, the State Board of Education is authorized and directed to issue regulations by January 1, 2018, which include minimum credentials, educational prerequisites, and relevant best practice experience requirements that will qualify a person to serve as a superintendent without having the direct

experience or certification as an educator specified in subsection (1) (a) of this section.

(4) The provisions of this section shall be applicable to any superintendent of schools selected on or after July 1, 2017, who has not previously served as a superintendent or assistant superintendent within the last five (5) years.

SECTION 4. Section 99-15-26, Mississippi Code of 1972, is amended as follows:

99-15-26. (1) (a) In all criminal cases, felony and misdemeanor, other than crimes against the person, a crime of violence as defined in Section 97-3-2, * * * a violation of Section 97-11-31 or crimes in which a person unlawfully takes, obtains or misappropriates funds received by or entrusted to the person by virtue of his or her public office or employment, the circuit or county court shall be empowered, upon the entry of a plea of guilty by a criminal defendant made on or after July 1, 2014, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.

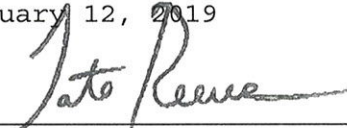
(b) In all misdemeanor criminal cases, other than crimes against the person, the justice or municipal court shall be empowered, upon the entry of a plea of guilty by a criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.

(4) Upon successful completion of the court-imposed conditions permitted by subsection (2) of this section, the court shall direct that the cause be dismissed and the case be closed.

(5) Upon petition therefor, the court shall expunge the record of any case in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.

SECTION 5. This act shall take effect and be in force from and after July 1, 2019.

PASSED BY THE SENATE
February 12, 2019



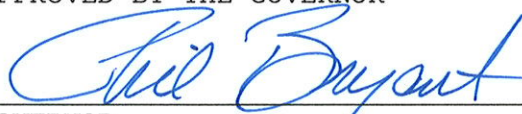
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 12, 2019



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

3/21/2019 2:08pm